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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,873	07/02/2003	Luc Brandt	25295A	6284
22889	7590	02/24/2005	EXAMINER	
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			SELLS, JAMES D	
			ART UNIT	PAPER NUMBER
			1734	
DATE MAILED: 02/24/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/613,873

**Applicant(s)**

BRANDT ET AL.

**Examiner**

James Sells

**Art Unit**

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1-2-04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 9-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wolf et al (US Patent 5,926,954).

Wolf discloses a silencer and a method of making it. As shown in Figs. 1-8, a septum 38 is wound around a perforated tube 36 by shuttle 32. A texturized fiber yarn 34 is then fed onto the tube over the septum. At col. 3, lines 49-53, Wolf discloses that the texturized yarn 34 may comprise e-glass, s-glass, or a mineral wool. At col. 1, lines 63-67, Wolf discloses that the septum may comprise e-glass, fiberglass or stainless steel wool.

As shown in Figs. 9-15, the wound silencer is inserted into canister 40. The system may include one or more baffles 78 separating first and second rolls 80 and 82.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 4-8 and 12-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al as described above in paragraph 2 in view of Brandt et al (US Patent 6,412,596).

Brandt discloses a muffler and a process for making it. As shown in the figures, muffler 10 comprises shell 12, partitions 14a-c with openings or perforations 14d, internal compartments 16a-d, and pipes 18, 20 and 22. See col. 4, lines 3-41. Nozzle 30 is inserted into fill openings 18b to fill compartment 16a with fibrous material 24.

Vacuum adapter 40, coupled to vacuum source 42 via hose 44 is inserted into the end portion 20a of pipe 20. See col. 4, line 66 through col. 5, line 24.

It would have been obvious to one having ordinary skill in the art to employ perforated partitions and fiber introduction system, as taught by Brandt, in the silencer and method of Wolf described above in order to facilitate sound dampening.

Regarding claims 5-8 and 12-15, it is the examiner's position that the specific materials claimed by the applicant are within the purview of one having ordinary skill in the art and would have been obvious to employ in the above system as a matter of design choice based on desired physical properties of the materials.

Regarding claims 16-34 it is the examiner's position that the shaped tool as well as the cutting, welding and affixing steps are well known and conventional in the art and would have been obvious to employ in the method of Wolf as a matter of design choice in order to facilitate manufacture of the silencer.

### ***References***

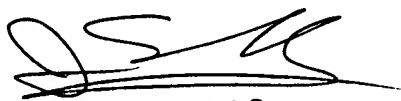
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5. References A–B are cited as prior art of interest.

***Telephone/Fax***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sells whose telephone number is (571) 272-1237. The examiner can normally be reached on Monday-Friday between 9:30 AM and 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



**JAMES SELLS  
PRIMARY EXAMINER  
TECH. CENTER 1700**